

Selendy|Gay



May 1, 2024

Via ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Room 2201
New York, New York 10007

Re: *Underwood v. Coinbase Global Inc.*, No. 21-cv-08353 (PAE)

Dear Judge Engelmayer:

Pursuant to the Court’s Individual Practice 1.A, we respectfully write on behalf of Plaintiffs in the above-referenced action to request a scheduling conference before the Court.

On April 5, 2024, the Second Circuit reversed in part, affirmed in part, and vacated in part this Court’s February 1, 2023 judgment, and remanded to this Court for further proceedings. *See Oberlander v. Coinbase Global Inc.*, 2024 WL 1478773 (2d Cir. Apr. 5, 2024) (summary order). Specifically, the Second Circuit reversed the dismissal of Plaintiffs’ claims under Section 12(a)(1) of the Securities Act of 1933, affirmed the dismissal of Plaintiffs’ claims under Section 29(b) of the Securities Exchange Act of 1934, and vacated the dismissal of Plaintiffs’ claims under the “blue sky” securities laws of California, Florida, and New Jersey, with instructions for this Court to “consider them in the first instance on remand.” *Id.* at *5. The Second Circuit’s mandate issued on April 30, 2024. *See* Dkt. 23-184, Judgment Mandate.

In light of the Second Circuit’s ruling, Plaintiffs respectfully request a conference at the Court’s earliest convenience to (1) discuss whether the Court would benefit from any additional briefing on the blue sky claims, and (2) set a schedule for Defendants to answer the Amended Complaint (with the exception of the state law claims, at this time) and for discovery. In light of the significant factual overlap in discovery between the adequately pled federal claims and the remanded blue sky claims, discovery should not be stayed during the pendency of any further dispositive briefing on the blue sky claims.

Plaintiffs are unaware of Defendants’ position on this request. Plaintiffs’ counsel advised Defendant’s counsel on April 30 of this letter request. That evening, Defendants said they would “raise the below with our client and be back to you promptly” and requested the opportunity to meet and confer before Plaintiffs filed a letter with the Court. Plaintiffs proposed to meet-and-confer at any point today before 4:00 p.m., but Defendants did not respond to that proposal.

Hon. Paul A. Engelmayer
May 1, 2024

Respectfully,

SELENDY GAY PLLC

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cc: All counsel of record (via ECF)